UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Andrew Baskerville	Date: 15 April 2005
Application No.: 10/690,419	Group Art Unit 3662
Filed: 10/20/2003	Examiner: Ian Lobo
For: Underwater Energy Dampening Device	Attorney Ref. No.: 147.04

Response to Office Action with Amendments

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir or Madam:

The applicants respectfully respond to the office action issued on November 18, 2004 with the following remarks and amendments.

Remarks

As amended, all the claims are now allowable, as explained in detail below.

Claim 11

The examiner has rejected claim 11 as anticipated by Lee (U.S. Pat. No. 6,606,278) and Fessenden (U.S. Pat. No. 1,348,828). As amended, Claim 11 covers vertically spaced bubble producing units "substantially surrounding all sides of a stationary project area." See claim 11. This "substantially surrounding" limitation distinguishes claim 11 from Lee or Fessenden.

The examiner argues that Lee discloses bubble producing units "positioned in a vertically oriented setup." See Office Action page 2. However, Lee's bubble producing units do not "substantially surround" the sides of the ship, which the examiner asserts is the project area. In fact, Lee does not disclose placing the bubble producing units substantially around the sides of anything. Instead, Lee's bubble-producing units are

"positioned so that the emitted bubbles are positioned between the receivers and the air-water surface." See Lee, page 4, lines 57-58.

Likewise, Fessenden only discloses bubble producing units shielding the port and starboard portions of the ship (the putative "project area"), leaving the prow and stern of the ship exposed. See Fessenden, page 1, lines 80-82, and Figs 1-2. Indeed, when the boat is stationary, the bubbles would only envelop a small portion of the ship, because the ship would not be moving relative to the vertical stream of bubbles. Thus, the "substantially surrounding" limitation of claim 11 simply has not been met by the cited prior art.

Claim 15

The examiner has also rejected claim 15 as allegedly anticipated by Lee and Fessenden. Claim 15 requires "vertically-aligned bubble producing units substantially surrounding" an underwater project. See claim 15. As explained above with reference to claim 11, neither Lee nor Fessenden discloses a device that "substantially surround[s]" a project area.

Additionally, Fessenden does not disclose "vertically aligned" bubble producing units, contrary to the examiner's claim. See Office Action page 3. Although in Fessenden Fig. 1, the top portion of feed pipe 34 *appears* to have vertically aligned bubble producing units, upon viewing the same structure from the angle presented in Fig. 2, it is clear that the units are in fact *not* vertically aligned.

Specifically, Fig. 1 only shows feed pipe 34 from a vantage point behind the ship, a position from which it is impossible to observe the pipe's front-to-back angle. However, the view of Fig. 2, taken from a vantage point on the port side of the ship, clearly shows feed pipe 34 angled toward the stern of the ship. See Fessenden, Fig. 2.

Therefore, the feed pipe 34 is not "vertically aligned" and Fessenden cannot support a 35 U.S.C. §102(b) rejection of claim 15.

Claim 16

The examiner has rejected claim 16 as anticipated by Fessenden. See Office Action page 3. Claim 16 requires "a spine placed substantially perpendicular to said water line." See claim 16. As shown in the preceding paragraph, Fessenden's spine is angled, and therefore is not "substantially perpendicular to said water line." See claim 16. Thus, Fessenden cannot support a 35 U.S.C. §102(b) rejection of claim 16.

Claim 17

Claim 17 requires "a spine placed in a bed of the waterway," as well as "a first bubble producing unit supported by said spine," and "a second bubble producing unit supported by said spine." See claim 17. The examiner argues that Arnoldi (U.S. Pat. No. 3,177,466) discloses this configuration, but this is simply not so. See Office Action page 3.

First, Arnoldi has no "spine" separate from its "bubble-producing units." Instead, Arnoldi discloses a pipe through which bubbles are emitted. Arnoldi, Fig. 1. The supposed "bubble producing units" in Arnoldi are nothing more than holes in the pipe, and thus are not the separate "units" required by claim 17. In other words, if Arnoldi's "pipe" is considered to be the "spine," then Arnoldi lacks the bubble-producing units required by claim 17. Likewise, if Arnoldi's "pipe" is considered to be the bubble-producing unit, then Arnoldi lacks the requisite spine. Either way, Arnoldi is missing at least one element of claim 17.

Second, Arnoldi's supposed "spine" is not "placed in a bed of the waterway," as required by claim 17. Instead, Arnoldi's supposed spine is "held ***adjacent*** the bottom of

the ocean, or similar body of water, by means of a plurality of anchors." Arnoldi page 1, lines 54-57, emphasis added. Figs. 1 and 2 in Arnoldi support this statement, and depict a long pipe running adjacent to and parallel to the sea bed, held in place by a plurality of anchors. See Arnoldi, Figs. 1 and 2. In contrast to Arnoldi, the present invention is limited by a spine placed "*in*" the bed of a waterway. See claim 17. This limitation is not taught or suggested by Arnoldi.

Conclusion

For the reasons stated above, the present application has not been anticipated or rendered obvious by the cited prior art, and is ready for allowance.

Dated: 15 April 2005 By: Daniel P. Maguire

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